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October 16, 2007

A. G. Kawamura
Secretary
California Department of Food and Agriculture
1220 N Street, Room A-400
Sacramento, California 95814

Dear Secretary Kawamura:

Thank you for your reply to my letter of September 24 concerning the U.S. Department of Agriculture and California Department of Food and Agriculture's Light Brown Apple Moth (LBAM) eradication program.

I appreciate your enhanced efforts to personally outreach to elected officials, including our September 25 meeting in Sacramento. It is my understanding Santa Cruz County Treasurer Fred Keeley will moderate the two Santa Cruz County public forums. Your commitment to a revamped format that enables Mr. Keeley to ensure all residents' questions will be answered is a positive development. I also think your decision to create a dedicated LBAM hotline and e-mail notification system is a good one.

As you know, many residents were concerned the CheckMate products could be toxic to aquatic invertebrates in Monterey Bay, so I was pleased to hear an independent laboratory test confirmed the product would not harm marine life. I understand you have now obtained a permit from the National Marine Sanctuary for the Monterey-area, and you are working toward obtaining a permit for the Santa Cruz-area.

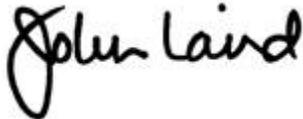
In addition, I applaud your decision to create an Environmental Advisory Task Force (EATF) with representatives from environmental groups, public regulatory and health agencies, organic and conventional agricultural entities as well as university researchers and scientists. I believe the credibility and effectiveness of the EATF rests on what the goals are, as well as transparency of proceedings and documentation. I look forward to learning who will serve on the committee, when their work will be underway, and when we can expect to see the results. It is important that the same urgency being applied to your eradication efforts also be applied to the work of the EATF.

Your letter responded effectively to many of my concerns and requests and I look forward to regular updates. However, there are questions and requests that went unanswered or require further clarification. I also have new questions that have arisen from discussions with various experts, elected officials and constituents.

I want to reiterate that I understand the potential threat LBAM poses to California's agricultural industries and terrestrial environment. As I have said numerous times, I believe third-party review based on sound science is a critical element in the public review process. I believe your response to my letter is a constructive step forward. I strongly encourage you to address the key questions and issues I have presented—both those remaining from my September 24 letter and the new questions attached—in advance of any further spraying.

Again, thank you for your personal attention to the public process, which I believe has been essential.

Sincerely,



JOHN LAIRD, Assemblymember
27th District

JL:cf

Attachment: "Light Brown Apple Moth Eradication Program: Key Questions and Issues"

Cc: Governor Arnold Schwarzenegger
Senator Barbara Boxer
Senator Dianne Feinstein
Congressmember Anna Eshoo
Congressmember Sam Farr
State Senator Jeff Denham
State Senator Abel Maldonado
State Senator Joe Simitian
Assemblymember Anna Caballero
Superintendent Paul Michel, Monterey Bay National Marine Sanctuary
Lawrence Hawkins, United States Department of Agriculture
Helene Wright, United States Department of Agriculture
Mary-Ann Warmerdam, California Department of Pesticide Regulation
Monterey County Board of Supervisors
Santa Cruz County Board of Supervisors
Fred Keeley, Santa Cruz County Treasurer
Mayor Manuel Quintero Bersamin and Councilmembers, City of Watsonville
Mayor Dene Bustichi and Councilmembers, City of Scotts Valley

Mayor Dan Cort and Councilmembers, City of Pacific Grove
Mayor Chuck Della Sala and Councilmembers, City of Monterey
Mayor Sue McCloud and Councilmembers, City of Carmel
Mayor Ila Mettee-McCutchon and Councilmembers, City of Marina
Mayor David Pendergrass and Councilmembers, City of Sand City
Mayor Emily Reilly and Councilmembers, City of Santa Cruz
Mayor Ralph Rubio and Councilmembers, City of Seaside
Mayor Joseph Russell and Councilmembers, City of Del Rey Oaks
Mayor Michael Termini and Councilmembers, City of Capitola
Ken Corbishly, Santa Cruz County Agricultural Commissioner
Eric Lauritzen, Monterey County Agricultural Commissioner
Dr. Poki Namkung, Santa Cruz County Health Officer
Dr. Hugh Stallworth, Monterey County Health Officer
Bill Hammond, Monterey County Farm Bureau
Bob Perkins, Monterey County Farm Bureau
Steve Bontadelli, Santa Cruz County Farm Bureau
Jess Brown, Santa Cruz County Farm Bureau
Dave Cavanaugh, Santa Cruz County Farm Bureau
Sharen Muraoka, American Cancer Society
Gina Soloman, Natural Resources Defense Council
Dr. Marcia Ishii-Eiteman, Pesticide Action Network of North America

Light Brown Apple Moth Eradication Program: Key Questions and Issues

Presented by Assemblymember John Laird

October 16, 2007

Inert ingredients

While I was pleased to hear the Department of Pesticide Regulation is re-evaluating the toxicological data on the active and inert ingredients in the CheckMate products, the fact the latter are a trade secret remains extremely problematic.

- How will the California Department of Food & Agriculture (CDFA) (and the U.S. Department of Agriculture (USDA)) resolve this controversial issue in advance of further spraying?
- Is the CDFA (and USDA) considering review of the ingredients by an independent third party?

Health complaints

As you know, the health complaints following the first application in Monterey County are of significant concern to me. I was pleased to learn a Department of Pesticide Regulation-led task force is undertaking an epidemiological analysis of the approximately 200 complaints from Monterey County.

- When and how will results of the task force analysis be reported before the next round of spraying?
- Will CDFA implement a long-term study of health effects before, during and after spraying, as suggested by a number of health and elected officials?
- If so, will CDFA be ready to commence this study in advance of any further spraying?

You have stated in your response to an Association of Monterey Bay Area Governments (AMBAG) question as to whether the pheromones components are safe (10/10/97) that the “U.S. EPA and California Department of Pesticide Regulation (DPR) concluded that there are no reported adverse effects to humans...”

- In light of the over 200 health complaints in Monterey County, do you believe it is still accurate to state there are no reported adverse effects to humans when DPR’s epidemiological analysis is ongoing and the possibility of undertaking a long-term study is being considered?

Eradication plan and environmental review

In my 9/24 letter, I requested information on when the LBAM eradication plan and associated environmental review would be available. Your letter notes the Environmental Advisory Task Force will “advise the department as we complete our review under the California Environmental Quality Act.” However, the following questions I asked were not answered:

- When will the eradication plan be available?
- When will the CEQA review be completed?

As previously stated, I applaud your decision to create an Environmental Advisory Task Force (EATF) and believe the credibility and effectiveness of the EATF rests on what the goals are, as well as transparency of proceedings and documentation.

- Who will serve on the committee, when their work will be underway, and what can we expect in terms of results?

Pheromone Mating Disruption efficacy

Several experts have questioned whether pheromone mating disruption (PMD) will be effective in eradicating LBAM. At the October 9 Santa Cruz City Council meeting, Mr. John Connell of your department said we should expect some kind of “mop-up operations around hot spots” of dense populations. Similarly, I raised the issue of the potential use of insecticides for high-infestation areas in my September 24 letter. At issue is whether CDFA concedes PMD may not eradicate LBAM and if so, what is the department’s “Plan B?” Since your response did not address the issue of using insecticides such as Bt or chlorpyrifos, I would appreciate knowing the following:

- Can you provide information on the effectiveness of PMD to eradicate, not just control, an invasive species?
- Can you specifically describe and assess the damage currently being inflicted in Santa Cruz County (where the infestation is most acute) in terms of both nurseries/crops and non-commercial/public/backyard areas?
- With regard to the Sanctuary permit, how will LBAM be eradicated within the “buffer zone” along the coastline?
- When and how frequently will CDFA report on the efficacy of spraying, and when will the results of the first Monterey County spraying be released?
- What would constitute a successful “eradication” of LBAM (e.g. zero captures over a certain period)?

- What is your “Plan B” if PMD fails to eradicate LBAM or if legal action impedes your ability to conduct further applications?
- If rain or other weather/seasonal conditions impede your ability to spray, how will CDFA respond?
- Under what circumstances (i.e., what, when, where, how) would CDFA use insecticides in residential areas in conjunction with or following PMD or instead of PMD? Would insecticide applications be conducted under the department’s existing emergency authority?

Third-party review

As you know, my letter encouraged you to arrange a third-party literature review of all relevant scientific studies on the human health and environmental safety of pheromones and to present this information in non-scientific terms in advance of any future spraying. In your response, you state, “In researching the topic of pheromones as an integrated pest management tool, third-party data exists showing that this technique has been in use for many years and has undergone thorough laboratory evaluations required by governmental regulatory bodies.”

- While I appreciate hearing about the studies and experts CDFA consulted to arrive at your current treatment protocols, when will specific and detailed information on the third-party data that exists be available in a format understandable and accessible by the general public?

Alternatives to aerial spraying

In your response to AMBAG, you noted CDFA is not pursuing the use of hand-applied twist tie pheromone dispensers because: 1) aerial spraying was chosen for its efficacy over a large area; 2) twist ties are only effective in small areas such as the 200-meter radius around an individual moth find; and 3) it would be impossible to implement a twist tie approach given the scale of the infested areas in Santa Cruz and Monterey Counties. The “September 2007 Environmental Assessment for Santa Cruz, Northern Monterey Counties” states, “as infested areas are reduced in size over time, the use of dispensers may become more practical and, therefore, may increase in use.”

- Can you be more specific on why implementing a twist tie approach is “impossible” with respect to efficacy, labor and funding?
- Under what circumstances could CDFA move from aerial spraying to twist ties?
- While waiting for alternatives such as sterile moths, could a “contain and control” program be implemented, such as in the case of Sudden Oak Death?

- Has the department developed an LBAM research plan with clear objectives and timelines?
- Have any of the USDA funds been designated for LBAM research in California or the U.S.?

Eradication zones

As you know, the eradication zone in Monterey was expanded subsequent to the release of the July 2007 Environmental Assessment for the “Seaside Area,” which concerned representatives from the Monterey Bay National Marine Sanctuary and residents.

- What are the protocols for expanding the spray area when there are new LBAM finds beyond, but in proximity to, the existing perimeter?
- If the spray area is expanded, how and when will residents be notified?

Monitoring

In your response you stated that you asked the Department of Pesticide Regulation to conduct environmental monitoring in Monterey County on September 9-12, even though no such monitoring was necessary.

- When will the monitoring data be available?
- What was the methodology?
- Will all future applications be monitored by DPR?

LBAM economic impacts

Many elected officials and residents continue to question why an emergency exists when it is not obvious LBAM has caused significant economic loss and hardship outside the nursery industry.

- What do we know today about actual economic losses caused directly by the pest itself?
- How are LBAM-related economic losses being monitored and reported?

Nursery industry impacts

In your response to my letter, you state you have “previously initiated—and are fast tracking—research in Australia to identify alternative treatments that will allow the

movement of nursery products in a timelier manner while maintaining an effective barrier to the movement of LBAM.”

- What research is being fast tracked?
- What monitoring and reporting requirements does CDFA or growers have with respect to the use of chlorpyrifos and the potential “downstream” impacts on the region’s water quality and the Sanctuary?
- Local nursery owners are spending considerable funds to implement regulations requiring the spraying and quarantines of infected stock. Has CDFA set aside funds from the USDA monies to provide financial assistance to the nursery industry (and other growers) impacted or potentially impacted by LBAM?

In your response, you state “nurseries may use the ‘softer’ alternatives, but that leads to shipping delays given the length of time needed to ensure egg-free status.” It is my understanding that the “softer” alternatives are currently only available to retail nurseries. Reportedly, wholesale nurseries’ option to use the alternatives of “softer chemicals” and the associated 10-day waiting period were associated with interim regulations and no longer apply.

- What is CDFA’s plan to work with the retail and wholesale nursery industry to expeditiously implement greener and less costly alternatives?
- What is the process for growers and nursery owners to provide input that could impact CDFA/USDA protocol?